

TO: Criminal Code Reorganization Study Committee

FROM: Professor Bob Rigg
Erica Nicholas, Nick Bailey (Research Assistants)

RE: Summary of Iowa Code Chapter 321J Proposed Revisions

The purpose of our effort here was to make Chapter 321J both more understandable and usable by the bar and citizens of the State of Iowa. No substantive changes have been made to any of the provisions relating to OWI in the Iowa Code. These are all merely stylistic changes. What we essentially did was reorganize Section 321J.2 (the OWI penalty and definitional section) as it presently exists and insert penalty provisions scattered elsewhere in the Iowa Code that apply to Chapter 321J.

Our intent was to have a separate subsection for each of the three types of OWI – OWI 1st Offense, OWI 2nd Offense, and OWI 3rd Offense – and then to list all the of the penalties under that subsection, whether they be fines, civil penalties, terms of imprisonment, etc. Much of the confusion surrounding the present OWI scheme is the fact that many of the penalties and eligibility for suspended or deferred sentences are literally scattered throughout the code volumes. Our intent here was to condense the penalties into one chapter of the Iowa Code.

Everything within the new proposed revisions to Iowa Code § 321J.2 was already contained in that section, save a few penalty provisions that have been duplicated from other areas of the code, and has merely been reorganized under easy to follow sub-headings. The penalty provisions from other areas of the Iowa Code that we inserted into our proposed revision to Iowa Code Section 321J.2 are as follows:

- ❖ Revised IA Code § 321J.2(3)(a) contains the maximum term of imprisonment for OWI 1st – a serious misdemeanor – of one year. This provision is presently located in Section 903.1.
- ❖ Revised IA Code § 321J.2(3)(b) contains the eligibility or ineligibility for a deferred judgment. This provision is presently located in Section 907.3(1)(g).
- ❖ Revised IA Code § 321J.2(3)(b) contains the provision for revocation of probation on a deferred judgment. This provision is presently located in Section 907.3(1)
- ❖ Revised IA Code § 321J.2(3)(c) contains the eligibility for a suspended sentence on an OWI 1st. This provision is presently located in Section 907.3(3).
- ❖ Revised IA Code § 321J.2(3)(d) contains a civil penalty provision. This provision is presently located in Section 907.14.
- ❖ Revised IA Code § 321J.2(4)(a) contains the maximum term of imprisonment for an OWI 2nd of 2 years. This provision is presently located in Section 903.1(2).

As mentioned above, save the bulleted additions listed above, all of the provisions in the revised Iowa Code Section 321J.2 which we propose are contained in the present version of 321J.2. The major changes are stylistic and make this code provision much more user friendly to the bar and the citizens of the State of Iowa.